

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

<b>SARAH UPDIKE, <i>et al.</i></b>	:	Case No. 1:22-cv-00374
	:	
Plaintiffs,	:	Judge Michael R. Barrett
	:	
v.	:	<b><u>PLAINTIFFS' UNOPPOSED MOTION</u></b>
	:	<b><u>FOR AN EXTENSION OF TIME TO</u></b>
<b>SARA JONAS, <i>et al.</i></b>	:	<b><u>RESPOND TO DEFENDANTS'</u></b>
	:	<b><u>MOTION TO DISMISS PLAINTIFFS'</u></b>
Defendants.	:	<b><u>FIRST AMENDED COMPLAINT</u></b>
	:	

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Plaintiffs hereby move for an extension of time, up to and including February 10, 2023, within which to file their response to Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint (Doc. 29). Counsel for Defendants have indicated they do not oppose this Motion or the requested extension of time. A memorandum in support follows, and a proposed Order is attached.

Dated: January 4, 2023

Respectfully submitted,

*s/ Nicole M. Lundrigan*  
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**MEMORANDUM IN SUPPORT**

On October 12, 2022, Defendants filed their Motion to Dismiss Plaintiffs' First Amended Complaint (Doc. 29), made pursuant to Civil Rules 12(b)(6) and 12(b)(1). Defendants argue Plaintiffs' lack standing to pursue their claims, and cite to evidence outside of the Amended Complaint contained in the Affidavit (with exhibits) of Larry Hook. *See id.*; *see also* Doc. 23.

Plaintiffs requested discovery on issues relating to these arguments, to which the Court, following several informal conferences, indicated Plaintiffs were entitled. Three depositions were requested by Plaintiffs (Larry Hook, Sara Jonas, and Leslie Rasmussen). Following this request, counsel for Defendants indicated substitute counsel would be making an appearance for Defendant Dr. Rasmussen due to a conflict of interest. The scheduling of the requested depositions was delayed several times while the parties sought guidance from the Court regarding the scope of the discovery and deposition questioning, while new counsel was appointed and made her appearance for Dr. Rasmussen, and due to scheduling conflicts among counsel and the witnesses. The depositions took place on November 17, December 14, and December 21, 2022. Counsel for Defendants have not yet received the transcripts from the December depositions. In addition, during the deposition of Defendant Sara Jonas on December 21, 2022, when questioned about the drafting, purpose, contents, meaning and intent of the Resolution she refused to answer based upon the objections and instructions of her counsel on the basis of a claimed "legislative privilege." Ms. Jonas' deposition was held open and not completed as a result. Upon receipt and review of the transcript of this deposition, counsel for Plaintiffs may need to address this asserted privilege with the Court and opposing counsel.

As a result of the foregoing, Plaintiffs respectfully request that this Court grant them an extension of time, up to and including February 10, 2023, within which to respond to Defendants' Motion to Dismiss (Doc. 29).

Dated: January 4, 2023

Respectfully submitted,

s/ Nicole M. Lundrigan

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was filed electronically with the Court's CM/ECF electronic filing services and served upon all parties of record on the 4<sup>th</sup> day of January, 2023.

s/ Nicole M. Lundrigan